IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Bail Appl..No. 4150 of 2007()

O.R.8/07 OF KALIKAVU FOREST RANGE

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PETITIONER

P.C.AHAMMEDKUTTY @ P.C.MON, S/O. KHADER HAJI, POOLAKKAL, CHERUTHODY, KANNAM VETTIKKAVU P.O., PULIKKAL VIA, KONDOTTY POLICE STATION LIMIT.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM, (O.R.NO.8 OF 2007 OF KALIKAVU FOREST RANGE).

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4150 of 2007

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Dated this the 13th day of July, 2007

O R D E R

Application for anticipatory bail. Petitioner is the 4th accused. Altogether there are six accused persons now. The Forest Officials, on receipt of prior information, had gone to the house of the first accused. Accused 1 to 3 were found there. They had a skin of a tiger available with them. In the course of interrogation, accused 1 to 3 made confession statements, which revealed to the officials that the tiger skin was entrusted to accused 1 and 2 by the 4th accused. He had already taken an advance of Rs.30,000/- A further amount of Rs. 1.5 lakhs was to be paid after the sale of the tiger skin. In these circumstances the 4th accused has been arrayed as an accused. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent and prays that anticipatory bail may be granted to the petitioner. At least there may be a direction to the

learned Magistrate to consider and dispose of the bail application to be filed by the petitioner on merits and expeditiously.

3. The application is opposed by the learned Prosecutor. The petitioner must appear before the Investigator or the learned Magistrate and co-operate with the investigation. The petitioner has to be interrogated to resolve the crime completely and exhaustively. In these circumstances anticipatory bail may not be granted to the petitioner, submits the learned Prosecutor.

4. Having considered all the relevant inputs, I find merit in the submissions of the learned Prosecutor. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course. I find no reason to invoke the equitable discretion under Section 438 Cr.P.C.

5. This application is hence dismissed. Needless to say, if the petitioner surrenders before the Investigating Officer or the learned Magistrate having jurisdiction and applies for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned

Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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